

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LUCIANO MENDEZ-ROJAS,

Petitioner

-v-

UNITED STATES OF AMERICA,

Defendant.

17 Civ. 8742 (PAE)

11 Cr. 929 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court has reviewed the *pro se* petition of Luciano Mendez-Rojas for relief pursuant to 28 U.S.C. § 2255, Dkt. 73,¹ and the Government’s memorandum of law in opposition, Dkt. 75 (“Gov’t Mem.”).

The Court denies Mr. Mendez-Rojas’s § 2255 petition, his third, for the reasons set out in the Government’s opposition memorandum. In the interest of economy, the Court incorporates by reference the analysis in that memorandum. In brief, as explained there, Mr. Mendez-Rojas’s petition (1) is untimely; and (2) fails to set out facts which would warrant relief under Federal Rule of Civil Procedure 60(b). *See* Gov’t Mem. at 3–5.

The Court is, further, deeply familiar with Mr. Mendez-Rojas’s case. The Court devoted considerable thought and attention to Mr. Mendez-Rojas’s case when it was pending between 2011 and 2013. With due care and attention, the Court later carefully considered, and denied, Mr. Mendez-Rojas’s initial § 2255 petition (filed in 2014) and his second such petition (filed in 2017). With confidence, the Court can state that Mr. Mendez-Rojas has no basis to claim error with respect to his prosecution, representation, plea or sentencing. Nor can Mr. Mendez-Rojas

¹ Unless otherwise indicated, docket references are to the docket of Mr. Mendez-Rojas’s criminal case, 11 Cr. 929.

credibly claim a miscarriage of justice. The evidence of his guilt on two offenses to which he pled guilty—sexual exploitation of a child (his own son) and transportation and distribution of child pornography—was overwhelming. It was largely video-graphic, in the form of video files extracted from Mr. Mendez-Rojas's computer following a valid law enforcement search. The 252-month sentence that the Court imposed for those offenses was amply justified. Any lesser sentence would have been incompatible with the assembled § 3553(a) factors.

The Court accordingly dismisses Mr. Mendez-Rojas's petition. The Court declines to issue a certificate of appealability and certifies that any appeal from this order would not be taken in good faith; therefore, *in forma pauperis* status is denied for the purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

The Clerk of Court is respectfully directed to terminate the motions pending at docket 73 of 11-Cr-929 and docket 10 of 17-Cv-8742. A copy of this decision will be mailed to Mr. Mendez-Rojas by Chambers.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: April 17, 2020
New York, New York